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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,282	02/17/2004	Donald W. Mitchell	04-Mitchell-001	2047
23843	7590	11/28/2007	EXAMINER	
FOOTHILL LAW GROUP 777 N. FIRST STREET, SUITE 325 SAN JOSE, CA 95112			HWANG, VICTOR KENNY	
		ART UNIT	PAPER NUMBER	
		3764		
		MAIL DATE	DELIVERY MODE	
		11/28/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/781,282	MITCHELL, DONALD W.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Victor K. Hwang	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 September 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,6,8,12,13 and 18-23 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,5,7 and 9-11 is/are rejected.
- 7) Claim(s) 4 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

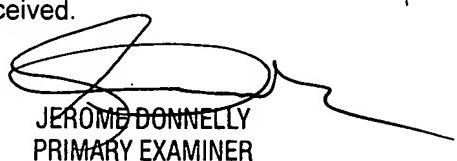
#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



JEROME DONNELLY  
PRIMARY EXAMINER

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Declaration*

1. The declaration under 37 CFR 1.132 filed September 10, 2007 is sufficient to overcome the rejection under 35 USC 103(a) of claims 1, 5, 7 and 9-11 as being unpatentable based upon *Mara* (US Pat. 5,458,552) in view of *Stand Alone Spinning Wing Chun Dummy* (Advertisement in KUNG FU Magazine, Fall 2002, pg. 53). The declaration states that the *Stand Alone Spinning Wing Chun Dummy* is not capable of rotating a full 360 degrees, but rather rotates about 90 degrees in either direction and then springs back on its own.

However, upon further consideration, a new ground(s) of rejection is made in view of *Mara* (US Pat. 5,458,552) and *Makarov et al.* (RU 2019230 C1).

### *Claim Objections*

2. Claims 14-17 are objected to because of the following informalities: claims 14-17 have been identified as cancelled and the text of the claim must not be presented. 37 CFR 1.121(c)(4)(i). Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, 7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Mara* (US Pat. 5,458,552) in view of *Makarov et al.* (RU 2019230 C1). *Mara* discloses a free-standing martial arts training device 10 comprising a base 12,14, an elongate shaft 16, and a plurality of padded arms 20 extending from the shaft along its length and about its perimeter. The shaft 16 has a plurality of apertures 22 along its length and about its four sides to which the padded arms 20 are selectively secured. The padded arms 20 may extend at approximately a right angle from the shaft 16 or may extend at an angle relative to the shaft 16. The padded arms 20 are shown extending from the shaft 16 at four different heights and into all four quadrants around the shaft. The padded arms 20 may be configured at various heights, in different numbers and in different angular positions (col. 2, lines 3-16). The device may be configured with only four arms, each arm at a different height, each arm extending in a different direction and extending at a right angle relative to the shaft.

*Mara* does not disclose a rotary bearing supported by the base, the rotary bearing supporting the elongate shaft at an end thereof such that the shaft is capable of 360 degree rotation.

*Makarov et al.* discloses a rotary bearing for a training device comprising base 1 having a vertical shaft 2 fixed thereto. A plurality of cantilever arms 7 carrying targets 8 are rotatable relative to the base and shaft. The cantilever arms extend from a hollow cylindrical shaft 4,5,6 that fit over the shaft 2 and are rotatable with respect to the shaft 2 and base. Bushings 10,11, bearing rings 17 and bearings 18 permit the hollow shaft 4,5,6 sections to rotate 360 degrees relative to the shaft 2. The rotating targets increases the efficiency of fight training.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the training device of *Mara* with a fixed base and shaft and a hollow elongate shaft with rotary bearings to fit over the fixed shaft, since *Makarov et al.* discloses that rotating targets increases the efficiency of fight training.

***Allowable Subject Matter***

5. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

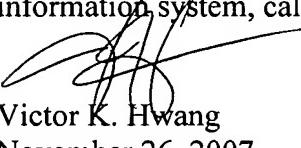
***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn H. Thanh can be reached on (571) 272-4966.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Victor K. Hwang  
November 26, 2007

JEROME DONNELLY  
PRIMARY EXAMINER

